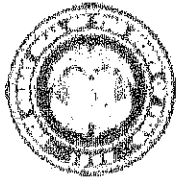


## **Discretionary Clauses are well-regulated pro-consumer provisions in Insurance Contracts**

Discretionary clauses in insurance contracts offer flexibility to carriers and protection to consumers:

- Discretionary clauses allow for the administrator of fully insured and self-insured plans (subject to state and federal laws) to in good faith interpret and administer policy benefits.
- All decisions made pursuant to discretionary clauses are subject to an internal and external appeals process- including Independent Review Organizations - supervised by the Department of Insurance.
- Any customer or subscriber to an insurance policy may appeal the decision through the carrier's internal appeals process. If he/she still disagrees with the carrier's decision, they may appeal to an external process that is regulated by the Department of Insurance.
- The external appeals process is rigorously supervised by the Department of Insurance (website for such information is attached).
- Without discretionary clauses, carriers would be required to develop massive contracts to respond to every conceivable contingency. For example, "investigational services" cannot be practically listed in every contract in order to anticipate every potential use. These medical services are constantly changing.
- Because medical science develops faster than contract language, discretionary clauses are important.
- Carriers do not have unlimited discretion. Any decisions made pursuant to the discretionary clause are subject to internal and external review. Furthermore, this saves the cost of litigation for consumers.

# Utah Insurance Department



## Independent Review of an Adverse Benefit Determination

### What is an adverse benefit determination?

- An adverse benefit determination is when a health insurance carrier denies, reduces, or terminates a benefit or rescinds health insurance coverage.

### What rights do I have if an adverse benefit determination happens?

- You may request an appeal or independent review.

### How can I find out if I qualify for an appeal or independent review?

- Your policy, certificate, or plan document will contain an explanation of the rights you have if an adverse benefit determination happens or you can ask your health insurance carrier.

### When can I request an appeal or independent review?

- Upon receiving notification of an adverse benefit determination, you must first request an internal appeal or review by the health insurance carrier.
- If the health insurance carrier upholds the initial decision, you may then submit a request for an independent review.

### Who administers the independent review process?

- The independent review process is administered by either the health insurance carrier or the Utah Insurance Department depending upon the type of health insurance. Contact your health insurance carrier to learn who administers the independent review process for your health insurance coverage.

### If my health benefit plan's independent review process is administered by the Utah Insurance Department, how do I request an independent review?

- [Click here to be linked to the Independent Review Request Form.](#) Print and complete the form.
- Gather the additional documentation listed on the What to Send and Where to Send It page of the request form.
- Submit the request and documentation to the Utah Insurance Department by:
  - mail: Suite 3110 State Office Building, Salt Lake City UT 84114;
  - email: [healthappeals.uid@utah.gov](mailto:healthappeals.uid@utah.gov); or
  - fax: 801-538-3829.

- If you are not able to access the request form by computer, call 801 538-3077 or toll-free 800 439-3905 to have the form mailed to you.

**What if the claim is for urgently needed care?**

- If the adverse benefit determination involves a medical condition that would jeopardize your life or health, an expedited review is available.
- Information in addition to the Independent Review Request Form is required. The Certification of Treating Health Care Provider for Expedited Consideration of a Patient's Independent Review page of the request form must be completed.

**What if the claim is for experimental or investigational treatment?**

- Information in addition to the Independent Review Request Form is required. The Physician Certification for Experimental/Investigational Denials page of the request form must be completed.

**How does an independent review organization apply to be placed on the commissioner's list of approved independent review organizations?**

- [Click here to be linked to the Independent Review Organization Application.](#)
- Gather the additional documentation listed on the Checklist page of the application.
- Submit the application, documentation, and fee to the Utah Insurance Department, Suite 3110 State Office Building, Salt Lake City UT 84114.

**Who do I contact if I have a question?**

- Contact your health insurance carrier; or
  - Contact the Utah Insurance Department by:
    - mail: Suite 3110 State Office Building, Salt Lake City UT 84114;
    - email: [healthappeals.uid@utah.gov](mailto:healthappeals.uid@utah.gov);
    - fax: 801-538-3829; or
- telephone: 801 538-3077 or toll-free at 800 439-3905.